

## AGREEMENT TO MEDIATE - FAMILY

\_\_\_\_\_ and \_\_\_\_\_, participants, agree to mediate with Heidi Blackstun, mediator, to resolve certain issues in question or in dispute, specifically concerning divorce (legal separation, parenting, post-divorce issues)). This Agreement to Mediate (Agreement) is to confirm our understanding and becomes effective when each of us has signed it.

### **1. The Mediator's Responsibility**

1.1 Definition and Description Mediation is a problem-solving conversation facilitated by a balanced and impartial third person, known as the mediator. The role of the mediator is to help participants identify issues that are important to each of them, communicate their ideas, explore options, reduce misunderstandings, clarify priorities, explore areas of compromise, negotiate differences, and if possible, come to mutually acceptable agreements.

1.2 Voluntariness Mediation is a voluntary process and the mediator has no authority to impose decisions on a participant, instead the mediator's role is to assist participants in making their own decisions, including whether and how to resolve the dispute. Participants may withdraw from mediation at any time or the mediator, for good cause, may conclude the mediation process at any time.

1.3 Ethical Standards As a professional mediator, the mediator follows the Model Standards of Practice for Family and Divorce Mediation set out by the Association for Conflict Resolution, the Association of Family and Conciliation Courts, and the Family Section of the American Bar Association. Copies of those standards are available upon request.

1.4 Legal Advice The mediator does not provide legal advice or legal representation to participants at any time during or after the mediation process. The mediator may give legal information, but not advice, to participants as may be necessary to make informed decisions. Participants are encouraged to seek legal counsel and advice at any time that may be necessary during the mediation process and before signing any settlement documents.

1.5 Conflicts of Interest The mediator has disclosed any prior associations or contacts she has had with each participant, if any, before the beginning of mediation, and the participants agree that these associations or contacts, if any, do not create a conflict of interest or lack of impartiality for purposes of this mediation.

### **2. The Mediation Procedure**

2.1 Meetings The participants understand and agree that we shall meet together regularly, although the number and length of the sessions may vary depending on the circumstances and complexities of the participants' situation. At some time during the mediation process, with the participants' consent, the mediator may want to meet with each participant separately in a private session. Either participant may also ask for a separate meeting with the mediator. The communications from a private session are confidential unless the participant with whom the mediator speaks privately gives the mediator permission to disclose what was learned in the private session.

2.2 Financial Information To make fully informed financial decisions, each participant agrees to fully disclose complete and accurate financial information, including all supporting documentation, relating to the subject of this mediation.

2.3 Maintaining Status Quo While participants are in mediation and unless they agree beforehand, they (1) will not buy, sell, transfer, encumber, conceal, or in any way dispose of any tangible or intangible property, except in the usual course of business or for the necessities of life; (2) will not make any

changes in insurance that could impact either participant or their children; and (3) will not make any other significant changes in the status quo of their family. If the participants are not able to agree on changes to the status quo, they will discuss those potential changes during mediation so both participants may have input into the decisions.

2.4 Written Agreement At the end of the mediation process, the mediator will prepare a written proposed agreement recording the participant' decisions, understandings or agreements. The proposed agreement is not legally enforceable or binding. While the mediation process can lead to the settlement of issues, it may not be a substitute for the legal process and it may still be necessary for a court to approve any agreement reached in order for that agreement to be binding and legally enforceable.

2.5 Confidentiality The participants acknowledge and understand that any communications made during the mediation process shall be considered confidential subject to the exceptions noted below. The participants shall not request that the communications of the mediator, or records or notes prepared by the mediator for the mediation process, be used or admitted as evidence in any subsequent legal proceedings, with the exception of any settlement documents that the participants wish to be submitted to the court. The participants also understand that state law and court rules provide for confidentiality in mediation. The mediator will keep all information provided in the mediation confidential and will not reveal the confidential information to anyone who is not a part of the mediation process unless (1) a court, statute, or ethical obligation of the mediator requires disclosure; (2) the mediator reasonably believes that a threat of violence made during mediation will result in grave bodily harm or death, in which case the mediator will report the threat to the appropriate people, or (3) other professionals, such as attorneys, accountants, appraisers, mortgage specialists, therapists, child specialists, or other professionals, are a part of the mediation process by the participant's voluntary agreement, in which case the mediator may share with the involved professional, verbally or in writing, information learned during the mediation process. The participants agree that they will not subpoena the mediator or the mediator's records or notes. If either participant seeks to subpoena the mediator of the mediator's records or notes, that participant will pay the mediator's fees and costs for any and all time that the mediator expends or incurs to quash or otherwise resist in responding to the subpoena.

2.6 Professional Involvement At times and with the participants' consent, it may be helpful to have the participants' attorneys or other professionals attend the mediation sessions. The participants authorize the mediator to send to their attorneys, any agreements, or progress reports, that may be prepared as part of the mediation process.

### **3. Fee Agreement**

3.1 Fees The participants agree to compensate the mediator for services during mediation sessions and services outside of mediation sessions, which include but are not limited to face-to-face meetings with the participants, jointly or separately, or any professional related to the participants' case; telephone calls, emails, or correspondence with the participants, jointly or separately, or any professional related to the participants' case; time spent preparing documents such as progress reports, spreadsheets, or agreements; and any follow up work such as revising documents. The mediator's fees are separate from fees for accountants, attorneys, or other experts who may be consulted. The mediator will be compensated at a rate of \$150.00 per hour. The hourly rate will be charged in tenth-of-an-hour increments (six-minute intervals). The participants may decide to allocate the fees between them; however, both participants agree to remain responsible for all fees due until the fees are paid in full.

3.2 Payment Structure The participants agree to pay for each mediation session at the beginning of each session. If the mediator does any work between sessions, the participants will pay for that work at the subsequent mediation session. The participants agree that \_\_\_\_\_ shall be responsible for \_\_\_\_\_% of the mediation fees and \_\_\_\_\_ shall be responsible for \_\_\_\_\_% of the mediation fees; however, both participant agree to remain responsible for all fees due

until the fees are paid in full. The participants will pay a drafting deposit of \$\_\_\_\_\_ prior to the time that the mediator begins to prepare the agreement memorializing the decisions reached by the participants. The participants agree to pay any balance due for drafting the agreement before the agreement is delivered to the participants. The charges for making any changes to the agreement are due when the revised document is completed. If the mediator sends a statement for services rendered, payment in full of any balance due is expected with ten (10) days of the participants' receipt of the statement unless special arrangements have been made.

\_\_\_\_\_  
Heidi Blackstun, MSW, LCSW, MBA

\_\_\_\_\_  
Date

\_\_\_\_\_  
Participant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Participant

\_\_\_\_\_  
Date